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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1937

No. 323

NEW YORK LIFE INSURANCE COMPANY,
PETITIONER,

vs.

STELLA JANE GAMER, AS EXECUTRIX OF THE WILL OF E. WALTER GAMER, ALSO KNOWN AS EDWARD W. GAMER, DECEASED

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR CERTIORARI FILED AUGUST 17, 1937.

CERTIORARI GRANTED OCTOBER 11, 1937.

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In the District Court of the United States in and for the District of Montana.

No. 847

STELLA JANE GAMER, as Executrix of the Will of E. Walter Gamer, also known as Edward W. Gamer, Deceased,

Plaintiff,

vs.

NEW YORK LIFE INSURANCE COMPANY, a corporation,

Defendant.

BE IT REMEMBERED that on September 6, 1933, the Complaint of the plaintiff with Exhibit

*Page numbering appearing at the foot of page of original certified Transcript of Record.

"A" attached thereto was filed herein, said Complaint and Exhibit "A" except the schedule of "Monthly and Annual Payments for each $1,000 of Proceeds of Policy", a part of said Exhibit "A", being in the words and figures following, to wit:

[2]

In the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow.

No. 34,543
Filed Jul. 18, 1933.
Summons issued.

STELLA JANE GAMER, as Executrix of the Will of E. Walter Gamer, also known as Edward W. Gamer, Deceased,

Plaintiff,

vs.

NEW YORK LIFE INSURANCE COMPANY, a corporation,

Defendant.

COMPLAINT.

Comes now the plaintiff above named, and for cause of action against the defendant complains and alleges:

1.

That the defendant above named, New York Life Insurance Company, is now and at all times herein

alleged has been and was a foreign corporation, duly organized and existing, and engaged in the business of making and issuing life insurance contracts insuring lives in the State of Montana, and was and is duly qualified, under the laws of the State of Montana, to engage in said business in the State of Montana.

2.

That E. Walter Gamer, who was also known as Edward W. Gamer, died at Butte, Montana, on the tenth day of April, 1933, and that said deceased at the time of his death was a resident of Silver Bow County, State of Montana, and that said E. Walter Gamer, who was also known as Edward W. Gamer, left a last will and testament, and that thereafter such proceedings were had that on the 6th day of May, 1933, the last will of said E. Walter Gamer, also known as Edward W. Gamer, was by order and decree of the District [3] Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow, duly given and made, duly admitted to probate in said Court, and this plaintiff, Stella Jane Gamer, was duly appointed executrix of the will of said E. Walter Gamer, also known as Edward W. Gamer, by said order and decree; that on said 6th day of May, 1933, said Stella Jane Gamer duly qualified as such executrix,